REMARKS/ARGUMENTS

In the Office Action dated March 23, 2006, Claims 1-28 were rejected under 35 U.S.C. §102 as being anticipated by U.S. Patent No. 6,505,160 to *Levy et al.* Claim 6 has been canceled and Claims 1-5 and 7-28 remain pending in the application. Reconsideration of this application is respectfully requested in view of the attached claim amendments and the following remarks.

A. U.S. Patent No. 6,505,160 to *Levy et al.*

Levy et al. disclose systems and processes for linking audio and other multimedia data objects with metadata and actions via a communication network. This communication network may be a computer network, a wireless network or a broadcast network, among others. Media objects are transformed into active, connected objects via identifiers that are embedded into them or their containers. The identifiers can be embedded by the owner, distributor or broadcaster of the media object, or automatically created from the media object.

In the context of a user's playback experience, a decoding process extracts the embedded identifier from a media object and possibly additional context information and forwards it to a server. The server, in turn maps the identifier to an action, such as returning metadata, re-directing the request to one or more other servers, or requesting information from another server to identify the media object. If the identifier has no defined action, the server can respond with an option for the user to buy the link and control the resulting action for all objects with the current identifier. The linking process can be applied to broadcast objects as well as objects transmitted over networks in streaming and compressed file formats.

B. Rejections of Claims 1-5, 7-21 and 23-25 Under 35 U.S.C. §102

Applicant respectfully submits that the Examiner has not established a *prima facie* case of anticipation. To establish a *prima facie* case of anticipation, the Examiner is obligated to identify where "**each and every facet of the claimed invention is disclosed in the applied reference**." *Ex parte Levy*, 17 U.S.P.2d 1461, 1462 (Bd. Pat. App. & Intef. 1990). Furthermore, anticipation requires that each and every claim element must be identical to a corresponding element in the applied reference. *Glaverbel Société Anonyme v. Northlake Mktg. & Supply, Inc.*, 45 F.3d 1550, 1554 (Fed. Cir. 1995). The Office Action fails to present such a *prima facie* case of anticipation.

In the present case, *Levy et al.* do not teach each recitation of amended independent Claim 1. In particular, *Levy et al.* do not describe:

> A method for a media agent to monitor multiple broadcast transmissions, each broadcast transmission containing media content, comprising identifying the broadcast transmission to be monitored; establishing connections with the identified broadcast transmissions; identifying, for each connected broadcast transmission, at least one characteristic of the media content associated with the connected broadcast transmission through a statistical pattern recognition scheme, wherein the media content does not include a unique identifier that is derived from, inserted or embedded in the media content; and maintaining the association between the identified at least one characteristic of the media content and the connected broadcast transmission. (emphasis added).

In contrast, *Levy et al.* describe a system and processes for linking audio and multimedia data objects to metadata and actions. This differs from the claimed invention in several significant ways. First, *Levy et al.* do not teach a "media agent" that monitors "multiple broadcast transmissions." The system and processes disclosed by *Levy et al.* do not monitor broadcast transmissions, but rather encode, embed and decode identifiers in multimedia data objects that link the objects to metadata or actions.

Second, *Levy et al.* do not teach a method of identifying at least one characteristic of media content "through a statistical pattern recognition scheme, wherein the media

content does not include a unique identifier that is derived from, inserted or embedded in the media content." *Levy et al.* merely disclose that "a decoding device or programmatic process extracts the identifier from the object and uses it to retrieve related data or actions." (column 2, lines 47-49). Thus, the emphasis in *Levy et al.* is on extracting an embedded identifier and no teaching is provided on the use of a specific method, such as a statistical pattern recognition scheme, for identifying at least one characteristic of media content in the absence of an embedded identifier that links each multimedia object to metadata or actions. Accordingly, *Levy et al.* do not teach this recitation of Claim 1.

Third, *Levy et al.* do not teach "establishing connections" with monitored "broadcast transmissions." Rather, *Levy et al.* teach receiving and decoding an embedded identifier in media objects that permits the linking of these objects to metadata or actions. There is no teaching or suggestion of how connections could be established with monitored broadcast transmissions without embedded identifiers. Indeed, in the absence of an embedded identifier, is it unlikely that the system and processes taught by *Levy et al.* would be capable of establishing any meaningful connection to specific media objects since the lack of embedded identifiers would not permit the linking or correlation of media objects to specific metadata or actions. In short, the receipt and decoding of information previously embedded in transmitted media objects is not the same as establishing connections to monitored broadcast transmissions of media content that do not include "a unique identifier" that is derived from, inserted or embedded in the content. Accordingly, *Levy et al.* do not teach this recitation of Claim 1. Therefore, the description provided by *Levy et al.* does not anticipate amended independent Claim 1

since each and every facet of the claimed invention is not disclosed in this applied reference.

Levy et al. also do not teach each recitation of amended dependent Claim 4. Specifically, *Levy et al.* do not teach a method for identifying at least one characteristic of media content in a connected broadcast transmission through a statistical pattern recognition scheme that is based on "an historical analysis of the media content associated with the connected broadcast transmission." Rather, *Levy et al.* teach a system and processes for embedding identifiers in multimedia objects that link to metadata or actions. The focus of teaching in *Levy et al.* is on the generation, embedding and decoding of identifiers that link to metadata or actions, whereas the claimed invention is directed to a statistical pattern recognition scheme that identifies at least one characteristic of media content through the use of an historical analysis of such content, not embedded identifiers. Accordingly, *Levy et al.* do not teach this recitation of amended Claim 4 and is therefore not anticipated since each and every facet of the claimed invention is not disclosed.

Likewise, Levy et al. also do not teach each recitation of dependent Claim 7. Specifically, *Levy et al.* do not teach "terminating the connection to...identified broadcast transmissions" after identifying at least one characteristic of media content. According to *Levy et al.*, additional context information retrieved after receiving and extracting an identifier from a media object may be used to determine what actions may be taken with respect to the associated media object. However, *Levy et al.* teach only the extraction of an identifier from a media object, not the identification of a broadcast transmission. Furthermore, there is no suggestion or teaching in *Levy et al.* of a step for terminating a

connection to an identified broadcast transmission of media content which does not include an identifier that is derived from, embedded or inserted in the content. Accordingly, *Levy et al.* do not teach this recitation of dependent Claim 7 and is therefore not anticipated since each and every facet of the claimed invention is not disclosed.

In view of the foregoing, applicant respectfully requests reconsideration and withdrawal of the rejection of independent Claim 1. Applicant further suggests that dependent Claims 2-5, 7-21 and 23-25 depend from one or more independently allowable claims and are allowable for all of the corresponding reasons set forth above.

C. Rejections of Claim 22 Under 35 U.S.C. §102

Levy et al. do not teach each recitation of amended independent Claim 22. In particular, *Levy et al.* do not describe a method including the step of "selecting a group of broadcast transmissions to be monitored, each broadcast transmission containing media content, wherein the media content does not include a unique identifier that is derived from, inserted or embedded in the media content." In contrast, *Levy et al.* describe a system and processes for linking multimedia objects to metadata or actions through the insertion or embedding of identifiers in each object. *Levy et al.* provides no teaching on a how a group of broadcast transmissions can be monitored, where such transmissions contain media content that does not include unique identifiers.

Levy et al. also do not teach how to identify "characteristics of the media content contained in the connected broadcast transmissions through an analysis of the connected broadcast transmissions." Based on the teaching in *Levy et al.*, in the absence of an embedded identifier in a media object, it simply would not be possible to identify characteristics of a media object or content because the identifier would not be available

for use in establishing the link between the object and related metadata or actions. Accordingly, *Levy et al.* do not teach each recitation of amended Claim 22 and applicant respectfully requests reconsideration and withdrawal of the rejection of independent Claim 22.

D. Rejections of Claims 26-28 Under 35 U.S.C. §102

Levy et al. do not teach each recitation of amended independent Claim 26. Specifically, *Levy et al.* do not teach a media agent comprising "a monitoring module for identifying at least one characteristic of the media content of [a] decoded broadcast transmission through a statistical pattern recognition scheme." (emphasis added). In contrast, *Levy et al.* describe a system and process for marking and embedding multimedia content, such as an audio file, that is later received and decoded by a conventional device or process (e.g., Windows Media Player, Liquid Audio player, etc.) (column 12, lines 16-21). However, each of the disclosed players necessarily seeks an identifier that "is encoded into an audio object or its container." (column 12, lines 12-13). Nothing in *Levy et al.* suggests or teaches the use of a "monitoring module" that identifies at least one characteristic of the media content contained in a received and decoded broadcast transmission, where the media content "does not include a unique identifier that is derived from, inserted or embedded into the media content." Thus, this recitation of amended independent Claim 26 is not taught by *Levy et al.*

Additionally, *Levy et al.* do not teach a media agent having a monitoring module that identifies at least one characteristic of received media content in a decoded broadcast transmission "through a statistical pattern recognition scheme." Although *Levy et al.* do teach how an identifier may be inserted into media content in the form of a numeric or

alphanumeric code, through data hiding techniques (i.e., steganographic methods) and in a derived from ancillary data (e.g., an audio signal, the table of contents, file structure, etc.) (see column 2, lines 22-37), and how the appropriate decoder may be used to decode the embedded identifiers in each form of multimedia content, there is no teaching or suggestion of how a statistical pattern recognition scheme could be used in a monitoring module to identify at least one characteristic of media content where such content does not include a unique identifier. Accordingly, *Levy et al.* do not teach this of recitation of Claim 26.

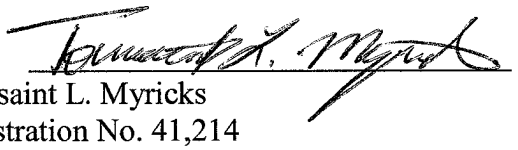
In view of the foregoing, applicant respectfully requests reconsideration and withdrawal of the rejection of amended independent Claim 26. Applicant further suggests that dependent Claims 27 and 28, which depend directly from independent Claim 26, and which include all of the recitations of independent Claim 26, are also patentably distinct over *Levy et al.*

CONCLUSION

Applicant submits that all pending claims are in condition for allowance. Accordingly, early and favorable action allowing all of the pending claims and passing this application to issue is respectfully requested. The Examiner is respectfully requested to contact the undersigned at the telephone number below if there are any remaining questions regarding this application.

Respectfully submitted,
AXIOS LAW GROUP

Date: August 23, 2006

By: 
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